United Nations A/AC.109/2010/14

General Assembly

Distr.: General
12 March 2010

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Guam

Working paper prepared by the Secretariat

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I. General

1. Guam is a Non-Self-Governing Territory administered by the United States of America. It is the southernmost and largest of the Mariana Islands in the Pacific Ocean, situated about 2,200 kilometres south of Tokyo and 6,000 kilometres west-south-west of Hawaii. The Territory consists of a single island of approximately 540 square kilometres and comprises two distinct geological areas of about equal size. The northern part of the island is a high coralline limestone plateau and the southern region is mountainous. Apra Harbor is one of the largest deep-water ports in the Pacific. The capital city of Guam is Hagåtña, also known as Agana.

2. When the first Spanish missionaries came to Guam late in the seventeenth century, it was inhabited only by the indigenous Chamorro people, who are believed to be of Malayo-Polynesian descent. As previously reported, the Chamorros comprise just over one third of the population and play an active role in the political and social life of the island, which has evolved into a multi-ethnic society. According to the United States Census Bureau International Data Base, Guam's population in 2009 was estimated at 178,000. It is expected that, with the upcoming military build-up (see para. 16 below), Guam's population will continue to grow, mostly through immigration. As previously reported, in the 2000 census results, the ethnic composition of the population was shown as 37.1 per cent Chamorro, 26.3 per cent Filipino, 11.3 per cent other Pacific Islander, 6.9 per cent white, 6.3 per cent other Asian, 2.3 per cent other ethnic origin and 9.8 per cent mixed. English and Chamorro are the official languages. The majority of the population (85 per cent) is Roman Catholic, with other Christian denominations also represented.

II. Constitutional, legal and political issues

3. Guam was administered by the United States Department of the Navy until 1950, when the United States Congress enacted the Organic Act of Guam, which established institutions of local Government and made Guam an "organized" Territory. Since then, the Territory has been administered by the Department of the Interior. Guam is an "unincorporated" Territory, since not all provisions of the United States Constitution apply to the island. According to United States law, Guam, as an unincorporated Territory, is a possession of the United States but not part of the United States.

4. Guam has a locally elected Government, which comprises separate executive, legislative and judicial branches. Universal suffrage with respect to elections in Guam applies to United States citizens who are legally resident in Guam and 18 years of age or older. All persons born in Guam and subject to the jurisdiction of the United States are citizens of the United States. The United States Constitution does not permit Guam to appoint electors of the President and Vice-President of the United States. The people of Guam elect a Governor, who serves a four-year term. The current Governor was re-elected in 2006. He is responsible for the general supervision and control of the executive branch and submits an annual report to the United States Secretary of the Interior for transmission to Congress. The Governor may issue executive orders and regulations, recommend bills to the Legislature, make his views known to that body and veto legislation.

5. The people also elect 15 senators, who serve two-year terms in the unicameral Legislature. The Legislature may override the Governor's veto. Under the 1950 Organic Act, the United States Congress reserves the authority to annul any law enacted by the Guam Legislature. Guam has two main political parties, the Republican Party and the Democratic Party, which are local chapters of the two main United States political parties. In the November 2008 legislative elections, Democrats won 10 seats compared with the Republicans' five.

6. Since 1972, Guam has had one delegate to the United States House of Representatives. As previously reported, the delegate, who serves a two-year term, may vote in committee and, since January 2007, on floor amendments but not on the final approval of bills. In the November 2008 elections, Madeleine Bordallo, a Democrat, ran unopposed. She was sworn in on 7 January 2009 for her fourth term as Guam's delegate to Congress.

7. The judicial system in Guam comprises both local and federal components. The local judicial system is made up of a Superior Court and a Supreme Court, which are led by judges appointed by the Governor and confirmed by the Legislature. Local judges are subject to confirmation by the voters every six years. At the federal level, a District Court judge, appointed by the President of the United States, is the head of the United States District Court of Guam. In 1998, Congress adopted an amendment to the Organic Act of Guam allowing the Guam Legislature to elect its own Attorney-General for a four-year term. The Attorney-General is the chief legal officer of the Government of Guam and is empowered with prosecutorial authority.

8. A further amendment to the Organic Act, which established the judiciary of Guam as an independent branch of Government, became law in 2004. As previously reported, the law confirmed the appellate jurisdiction and administrative authority of the Supreme Court of Guam over all inferior courts in the Territory, thereby effectively establishing a unified local judiciary.

9. Periodically, there have been moves in Guam to change the island's political status. In a 1976 referendum, Guamanians decided to maintain close ties with the United States, but also to begin negotiations to improve the Territory's status. In 1979, the people of Guam rejected a draft constitution by a margin of five to one, mainly on the grounds that the question of political status had to be resolved before a meaningful constitution could be drafted. Another referendum took place in 1982, with 73 per cent of voters opting to pursue commonwealth status with the United States.

10. The Commission on Self-Determination, established in 1984, completed a draft Commonwealth Act in 1986, which, after a public education campaign, was submitted for an article-by-article vote on 8 August 1987 (see A/AC.109/1192, paras. 19 to 37). Voters approved the core proposals, but rejected articles empowering the Government of Guam to restrict immigration and granting the indigenous Chamorro people the right to determine the future political status of the Territory. In a further referendum in November 1987, both of those outstanding provisions were approved after having been amended and rewritten. A summary of the main points in the draft Commonwealth Act is contained in the 2001 working paper (A/AC.109/2001/4).

11. Nevertheless, subsequent discussions from 1989 to 1997 between the Commission and the Government of the United States on a commonwealth agreement did not reach a resolution. In 1997, Guam Public Law 23-147 established the Commission on Decolonization for the Implementation and Exercise of Chamorro Self-Determination, to address an important but controversial issue within the Chamorro population. The Commission, in concert with a process of registration of eligible voters organized by the Guam Election Commission, was to oversee the conduct of a vote with regard to the status preferences of the Chamorro people (independence, integration or free association), in accordance with international standards.

12. As previously reported, in 2000 the Guam Legislature provided the Guam Election Commission with the power to set the date of the decolonization plebiscite, in which it was expected that the Territory's indigenous people would be asked to choose between statehood, independence and free association with the United States. The plebiscite would have been non-binding but would have set the course for any future discussions of political status with the administering Power. The vote, scheduled to take place on 2 November 2004, was postponed because eligible voters had not been identified and registered. To date, no further action has been reported.

13. During a meeting of the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly on 7 October 2009, seven Chamorro petitioners from Guam vigorously defended their people's right to self-determination and criticized the administering Power's "expansionist hypermilitarization" of the Territory, as well as what they described as its devastating cultural hegemony and onerous environmental policies.

14. According to reports in the media in early 2010, there is an ongoing discussion in Guam on issues related to the Territory's status, as well as on any moves towards self-determination. For instance, the media have reported that candidates for elections in the Territory have been called upon to state their positions on self-determination, and that self-determination under the United States flag is regarded as a "polarizing" issue.

III. Military issues

15. Guam was administered by the United States Navy until 1950, and remains the site of extensive United States naval and air force installations. Petroleum storage, munitions stowage, extensive communications facilities and other service industries that cater to the military establishment form the basis of the military infrastructure in Guam. According to media reports, in August 2009 the United States Air Force announced that a Global Hawk unit would be permanently established in Guam to accommodate three highly sophisticated unmanned planes.

16. As previously reported, the United States decided to realign United States Marine Corps capabilities in the Pacific region through the transfer of United States military personnel from Okinawa, Japan, to Guam. On 17 February 2009, an agreement on the movement of the Marine Corps personnel was signed. According to the administering Power, the whole build-up project would draw approximately 19,000 military personnel and their families, including 8,000 marines, 9,000 family

members and up to 2,000 other soldiers, sailors and associated personnel.[1] According to media reports, the Governor and Guam's congressional delegate, speaking at the April 2009 Guam Industry Forum, said that the build-up must benefit both the civilian and the military community.

17. As previously reported, opposition to the military expansion stems mainly from concerns about the sociocultural, economic and environmental impacts on Guam. Anticipated downsides to the economic upswing and greater activity expected to result from the build-up also include higher inflation, more congestion and greater pressure on outdated infrastructure, in addition to environmental concerns.

18. According to media reports, in August 2009 Guam's delegate introduced a bill (H.R. 3379) in the United States Congress to "amend the Radiation Exposure Compensation Act to include the Territory of Guam in the list of affected areas with respect to which claims relating to atmospheric nuclear testing shall be allowed". The bill was referred to the House Judiciary Committee. Earlier in the year, the delegate had reintroduced a bill authorizing $126 million in compensation for Guam residents (or their survivors) who suffered during the Japanese occupation of the island during the Second World War. That bill, which had the support of President Barack Obama, was passed by the House of Representatives in January 2009 but was not approved by the United States Senate. The Guam delegate is planning to reintroduce it.

IV. Land issues

19. The question of land use and ownership continues to be a major concern in Guam. This question comprises two major issues: the return of unused or underutilized lands held by the United States Department of Defense and the return of those lands to the original Chamorro landowners. In 1994, the United States Congress passed the Guam Excess Lands Act (Public Law 103-339) to return 12.9 square kilometres to the people of Guam. No new information is available with regard to the impact the military build-up might have on the implementation of that law. The latest available data show that by 2005 a total of 180 parcels of land benefiting 2,000 families had been returned, an increase of 7 parcels over the previous year (see A/AC.109/2006/8).

20. According to media reports, the Guam Ancestral Lands Commission has collected about $400,000 from leases and licenses to compensate original landowners who will never get their land back, but it is unclear when that money will be paid out and to how many people. Private landowners in the Territory have the right to refuse to sell any of their land for military purposes. As regards public land, such requests would need the approval of the Guam legislature.

[1] Information provided by the administering Power on 27 February 2010.

V. Budget

21. The budget of Guam comprises revenues received by the Government of Guam and federal grants, with the latter generally allocated to particular sectors through the Department of the Interior on an ad hoc basis. According to federal law, all island residents, including military personnel, have to pay income taxes to the Guam General Fund and not to the federal Government. The Governor has the power to veto a budget bill; however, the Legislature can either override the Governor's veto by a special majority or reconsider the bill.

22. In February 2010, the Governor sent the proposed 2011 budget to the Guam Legislature. The budget prioritizes education, health and public safety. It also addresses deficit reduction and provides for a partial funding of the pay increases for employees of the Government of Guam. The 2011 budget projects revenues of $600,811,600, an 8 per cent increase from the projected budget levels adopted in fiscal year 2010.

23. The breakdown of the fiscal year 2011 executive budget is $246 million (34 per cent) for education, $101.6 million (14 per cent) for health and $107.9 million (15 per cent) for public safety. The remainder of the proposed budget goes to other agencies and for other purposes, including 9 per cent for debt service, 2 per cent towards deficit reduction and 2 per cent for the implementation of the findings of a Government-wide pay study.

VI. Economy

A. General

24. The economy of Guam continues to have two primary pillars: tourism and the military. While tourism has been the primary driver of the island's economy for the last three decades, the Government of Guam and leaders in the private sector have worked to create an environment conducive to the development of other industries, such as financial services, telecommunications and transportation. Manufactured products include textiles and garments, cement and plastics.

25. According to media sources, 2009 witnessed a decline in tourist arrivals; however, the upcoming military expansion is likely to become the main engine of economic activity. The expansion is anticipated to benefit Guam's economy in the amount of $1.5 billion per year once the process begins. In 2010, in his state of the island address, the Governor acknowledged the economic benefits of the military build-up, while also underlining that it would impact the Territory's environment and create financial, social and cultural challenges. He called on the federal Government to ensure a balance.

26. Guam has a duty-free port and is an important distribution point for goods destined for Micronesia. Re-exports constitute a high proportion of Guam's exports, which include petroleum products, iron and steel scrap, automobiles, tobacco and cigars, among other things. Major trading partners of the Territory include the United States, Japan, Germany and China.

B. Tourism

27. As previously reported, tourism continues to be the largest sector of Guam's economy, generating a significant part of the Territory's revenue. Despite the advertising efforts by the Guam Visitors Bureau in 2009 to promote tourism, the media reported a decline of visitors from Japan and the Republic of Korea, which could not be offset by an increase in arrivals from Taiwan Province of China. In June 2009, the Territory welcomed about 60,000 visitors, representing a significant decrease compared with almost 95,000 during the same month in 2008. The unstable global economy and widespread fears of catching swine flu while travelling were seen as contributing to the lower arrival numbers.

C. Construction

28. According to media reports, much of the construction activity now under way in the Territory is directly or indirectly related to the military build-up. A record almost $800 million worth of military construction projects were proposed for fiscal year 2010 by the United States Administration in May 2009, including $259 million to modernize the United States Naval Hospital, $167 million to improve wharves at Apra Harbor and $48 million for a haul-road network. The lifting in April 2009 of the moratorium on new building development is expected to stimulate new building and investments.

D. Transport and communications

29. According to media sources, the current transport infrastructure of Guam comprises one commercial and one military airport, approximately 1,000 kilometres of roadways (almost all paved) and one port. Guam's international airport is the most modern in the western Pacific. During 2009, a second runway was under construction there.

30. The Port Authority of Guam, which is a public corporation and an autonomous agency of the Government of Guam, administers the commercial port facilities at Apra Harbor. It is the entry point for 95 per cent of all goods entering Guam and serves as a trans-shipment centre for Micronesia. According to the administering Power, in December 2007 the Port Authority entered into a five-year agreement with both Matson and Horizon Lines for the non-exclusive right to use the port's rails for landing, installing, using and maintaining three refurbished cranes from the Port of Los Angeles. The cranes have recently been retrofitted and modified to enhance their productivity and handling capabilities.

31. As previously reported, Guam continues to serve as a major telecommunications hub for the Asia/Pacific rim. Guam has a modern digital telephone system, including cellular mobile service and local access to the Internet. The system is integrated with United States facilities for direct dialling, including the free use of "800" numbers.

E. Water system, sanitation and utilities

32. As previously reported, about three quarters of the Territory's water supply is provided by the Guam Waterworks Authority. The Government's water sources consist of groundwater and surface water (the Ugum River). The remainder is produced by the air force and naval installations on Guam. The naval water source is a surface reservoir (Fena Lake) in the southern part of the island.

33. In February 2010, the media reported that the Territory's Environmental Protection Agency had sharply criticized the military's plan to move thousands of marines to Guam without planning infrastructure upgrades to help prevent raw sewage spills and a shortage of water.

F. Agriculture and fisheries

34. The farming and fishing sectors are relatively well developed. Vegetables, citrus and tropical fruits, coconuts and sugar cane are grown, and livestock, especially poultry, is raised. The Guam Department of Agriculture is entrusted with developing and protecting the Territory's agriculture and natural resources. The Department is divided into divisions dealing with animal and plant industry, agricultural development, forestry and soil resources and aquatic and wildlife resources.

35. At a 2009 meeting in Hawaii, the Western Pacific Regional Fishery Management Council recommended that the United States Department of Defense and the National Marine Fisheries Service investigate and address the impact on local fishing communities of the ongoing military build-up and that they develop a mitigation and compensation plan to assist those affected, including in Guam.

VII. Social conditions

A. Labour

36. According to the Guam Department of Labor, the September 2009 unemployment rate was 9.3 per cent, an increase of one percentage point compared with September 2007. According to the statistics released by the Guam Department of Labor in 2009, average household income dropped by $1,276, or 2.7 per cent, between 2005 and 2008.

37. As previously reported, on 7 March 2009 the United States Department of Labor announced that Guam was expected to receive $4 million for employment and training programmes under the American Recovery and Reinvestment Act of 2009. The allocation was meant, inter alia, to address the immediate employment needs of low-income low-skilled workers.

38. Further, the Office of Insular Affairs of the United States Department of the Interior continues to work on developing training and apprenticeship programmes for eligible labourers in the Guam region. About 12,000 foreign workers and an estimated 5,000 residents are needed for the military build-up, which is scheduled to take place between 2010 and 2014. In this context, the Guam Contractors Association voiced concern over a proposal to align wages for workers on military

IX. Relations with international organizations and partners

51. Guam has been an associate member of the Economic and Social Commission for Asia and the Pacific since 24 July 1981. It is a member of the Secretariat of the Pacific Community and the Micronesian Chief Executives Summit. According to the administering Power, in 2009 Guam expressed the wish to be allowed to interact more with and obtain observer status at the Pacific Islands Forum.

X. Future status of the Territory

A. Position of the territorial Government

52. Developments regarding discussions on the future status of Guam are reflected in section II above.

B. Position of the administering Power

53. Most recently, in a letter dated 2 November 2006 addressed to American Samoa's delegate to the United States House of Representatives, the Assistant Secretary of State for Legislative Affairs elaborated the position of the Government of the United States, which was considered equally valid for 2009, on the status of American Samoa and other United States insular areas. In his letter, the Assistant Secretary of State indicated that the status of the insular areas regarding their political relations with the federal Government was an internal United States issue, and not one that came under the purview of the Special Committee of 24 on Decolonization. In the letter, the Assistant Secretary of State also noted that the Special Committee had no authority to alter in any way the relationship between the United States and those Territories, and no mandate to engage the United States in negotiations on their status. The letter further stated that, at the same time, in accordance with its obligations under the Charter of the United Nations to provide regularly to the United Nations statistical and other information of a technical nature relating to the economic, social and educational conditions in the Territory, the federal Government did submit annual updates on United States Territories to the Special Committee of 24 as a demonstration of United States cooperation as an administering Power and as a corrective to any errors in information that the Special Committee might have received from other sources.

C. Action taken by the General Assembly

54. On 10 December 2009, the General Assembly adopted, without a vote, resolutions 64/104 A and B, based on the report of the Special Committee for 2009 transmitted to the General Assembly (A/64/23 and Corr.2) and the subsequent consideration of that report by the Special Political and Decolonization Committee (Fourth Committee) (see A/64/413). Section VI of resolution 64/104 B concerns Guam. Under that section's operative paragraphs, the General Assembly:

> 1. Called once again upon the administering Power to take into consideration the expressed will of the Chamorro people as supported by Guam voters in the referendum of 1987 and as subsequently provided for in

Guam law regarding Chamorro self-determination efforts, and encouraged the administering Power and the territorial Government to enter into negotiations on the matter;

2. Requested the administering Power, in cooperation with the territorial Government, to continue to transfer land to the original landowners of the Territory, to continue to recognize and to respect the political rights and the cultural and ethnic identity of the Chamorro people of Guam and to take all measures necessary to address the concerns of the territorial Government with regard to the question of immigration;

3. Also requested the administering Power to cooperate in establishing programmes for the sustainable development of the economic activities and enterprises of the Territory, noting the special role of the Chamorro people in the development of Guam;

4. Recalled the request made previously by the elected Governor to the administering Power to lift restrictions to allow for foreign airlines to transport passengers between Guam and the United States of America to provide for a more competitive market and increased visitor arrivals;

5. Requested the administering Power to assist the Territory by facilitating public outreach efforts, consistent with Article 73 *b* of the Charter of the United Nations, and, in that regard, called upon the relevant United Nations organizations to provide assistance to the Territory, if requested.